

AMENDED IN SENATE MAY 4, 2005
AMENDED IN SENATE APRIL 19, 2005

SENATE BILL

No. 965

Introduced by Senator Escutia
(Coauthors: Senators Alquist and Ortiz)

February 22, 2005

An act to amend Section 49431.5 of the Education Code, relating to pupils.

LEGISLATIVE COUNSEL'S DIGEST

SB 965, as amended, Escutia. Pupil nutrition: beverages.

(1) Existing law requires the governing board of a school district to give diligent care to the health and physical development of pupils. Existing law restricts the sale of beverages to pupils at *an elementary school to certain specified beverages, including water, milk, and 100% fruit juices, and at a middle or junior high school at specified times to certain specified beverages.*

This bill would *modify the list of beverages that may be sold to pupils at an elementary or a middle or junior high school, and would* restrict the sale of beverages to pupils at a high school at specified times to certain specified beverages. To the extent that this bill would impose new duties on a school district, the bill would create a state-mandated local program.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state,

reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 49431.5 of the Education Code is
2 amended to read:
3 49431.5. (a) (1) Regardless of the time of day, ~~beverages,~~
4 ~~other than water, milk, 100 percent fruit juices, or fruit-based~~
5 ~~drinks that are composed of no less than 50 percent fruit juice~~
6 ~~and have no added sweeteners, may not be sold to a pupil at an~~
7 ~~elementary school. only the following beverages may be sold to a~~
8 ~~pupil at an elementary school:~~
9 (A) *Fruit-based drinks that are composed of no less than 50*
10 *percent fruit juice and have no added sweetener.*
11 (B) *Vegetable-based drinks that are composed of no less than*
12 *50 percent vegetable juice and have no added sweetener.*
13 (C) *Drinking water with no added sweetener.*
14 (D) *Two percent-fat milk, one percent-fat milk, nonfat milk, soy*
15 *milk, rice milk, and other similar nondairy milk.*
16 (2) An elementary school may permit the sale of beverages
17 that do not comply with paragraph (1) as part of a school
18 fundraising event in any of the following circumstances:
19 (A) The items are sold by pupils of the school and the sale of
20 those items takes place off the premises of the school.
21 (B) The items are sold by pupils of the school and the sale of
22 those items takes place one-half hour or more after the end of the
23 schoolday.
24 (3) From one-half hour before the start of the schoolday to
25 one-half hour after the end of the schoolday, only the following
26 beverages may be sold to a pupil at a middle or junior high
27 school:
28 (A) *Fruit-based drinks that are composed of no less than 50*
29 *percent fruit juice and have no added ~~sweeteners~~ sweetener.*
30 (B) *Vegetable-based drinks that are composed of no less than*
31 *50 percent vegetable juice and have no added sweetener.*
32 (C) *Drinking water with no added sweetner.*
33 ~~(C)~~

1 (D) Two percent-fat milk, one percent-fat milk, nonfat milk,
2 soy milk, rice milk, and other similar nondairy milk.

3 ~~(D)~~

4 (E) An electrolyte replacement beverage that contains no more
5 than 42 grams of added sweetener per 20-ounce serving.

6 (4) A middle or junior high school may permit the sale of
7 beverages that do not comply with paragraph (3) as part of a
8 school event if the sale of those items meets all of the following
9 criteria:

10 (A) The sale occurs during a school-sponsored event and takes
11 place at the location of that event after the end of the schoolday.

12 (B) Vending machines, pupil stores, and cafeterias are used
13 later than one-half hour after the end of the schoolday.

14 (5) This subdivision does not prohibit an elementary, or
15 middle or junior high school from making available through a
16 vending machine any beverage allowed under paragraph (1) or
17 (3) at any time of day, or, in middle and junior high schools, any
18 beverage that does not comply with paragraph (3) if the beverage
19 only is available not later than one-half hour before the start of
20 the schoolday and not sooner than one-half hour after the end of
21 the schoolday.

22 (b) (1) At each high school, the sale of all beverages on school
23 grounds shall be approved for compliance with this section by
24 the person or persons responsible for implementing these
25 provisions as designated by the school district.

26 (2) Commencing July 1, 2007, no less than 50 percent of all
27 beverages sold to a pupil from one-half hour before the start of
28 the schoolday until one-half hour after the end of the schoolday
29 shall be those enumerated by paragraph (4).

30 (3) Commencing July 1, 2009, all beverages sold to a pupil
31 from one-half hour before the start of the schoolday until
32 one-half hour after the end of the schoolday shall be those
33 enumerated by paragraph (4).

34 (4) Beverages allowed under this subdivision are all of the
35 following:

36 (A) Fruit-based drinks that are composed of no less than 50
37 percent fruit juice and have no added ~~sweeteners~~ *sweetener*.

38 (B) Vegetable-based drinks that are composed of no less than
39 50 percent vegetable juice and have no added ~~sweeteners~~
40 *sweetener*.

1 (C) Drinking water with no added sweetener.

2 (D) Two percent-fat milk, one percent-fat milk, nonfat milk,
3 soy milk, rice milk, and other similar nondairy milk.

4 (E) An electrolyte replacement beverage that contains no more
5 than 42 grams of added sweetener per 20-ounce serving.

6 (c) For the purposes of this section, “added sweetener” means
7 any additive that enhances the sweetness of the beverage,
8 including added sugar, but does not include the natural sugar or
9 sugars that are contained within the fruit juice which is a
10 component of the beverage.

11 (d) It is the intent of the Legislature that the governing board
12 of a school district annually review its compliance with this
13 section.

14 (e) Notwithstanding Article 3 (commencing with Section
15 33050) of Chapter 1 of Part 20, compliance with this section may
16 not be waived.

17 SEC. 2. If the Commission on State Mandates determines that
18 this act contains costs mandated by the state, reimbursement to
19 local agencies and school districts for those costs shall be made
20 pursuant to Part 7 (commencing with Section 17500) of Division
21 4 of Title 2 of the Government Code.